IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE V.ESWARAIAH
WRIT PETITION NO : 3577 of 2004

Between:

M.Bala Sundara Rao, S/o Biksha Raju, Occ: Attender
Ilaparru PACS Ilaparru, Nandivada Mandal, Krishna District.

..... PETITIONER

AND

1 The Commissioner for Cooperation and Registrar of Coop.Societies, Government of Andhra Pradesh,Hyderabad.
2 The District Cooperative Officer, Krishna District at Machilipatnam.
3 The Divisional Cooperative Officer, Gudivada, Krishna District.
4 the Ilaparru PACS, Ilaparru, Nandivada Mandal, Krishna District. rep.by its Chairman /PIC.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Certiorari calling for the records relating to the impugned Notice dated 24-1-2004 on the file of the 4th respondent society and quash the same as the same is illegal, arbitrary and violative of Art.14 of the Constitution of India

Counsel for the Petitioner:MR.G.V.SHIVAJI

Counsel for the Respondents 1 to 3: GP FOR COOPERATION

Counsel for the Respondent No.4: Notice sent returned unserved.

The Court made the following :

ORDER:

The petitioner is the employee of the 4th respondent Society. His services were terminated by the Society on the ground that its financial condition is bad and that the said appointment of the petitioner was made contrary to Act 2 of A.P. (Regulation of Appointments to Public Services and Rationalization of Staff Pattern and Pay Structure) Act, 1994 (for short 'Act 2 of 1994).

Learned counsel for the respondents submits that the services of the petitioner was terminated after following due procedure prescribed in law.

It is not in dispute that the employee of the Society is entitled to continue if he is appointed in the sanctioned post in respect of the staffing pattern fixed by the society as approved by the Registrar of Cooperative Societies, subject to the

condition that the expenditure of pay and allowances shall not exceed 2% of the working capital or 30% of the gross profit in terms of actuals in a year, whichever is less. It is also open for each Society to revise the staffing pattern and pay & allowances for fulfilling the said conditions of Section 116 (c) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'). Merely because some of these employees have been appointed contrary to Act 2 of 1994, it cannot constitute a ground to remove their services as long as their appointment is in compliance of Section 116 (c) (1) of the Act. If it is a simple removal by the Society in compliance of Section 116 (c) (1) of the Act, this court would not have entertained the writ petition filed by its employee but the action of the societies is pursuant to the directions of the higher authorities removing their employees, whose appointment was made contrary to Act 2 of 1994.

The writ petition is disposed of directing the respondent society to review the impugned order and take appropriate decision in conformity with Section 116 (c)(1) of the Act, giving the particulars of the staffing pattern fixed by them as approved by the Commissioner and Registrar of Cooperative Societies and pass appropriate orders in accordance with law. No costs.

14.9.2004

cvm

To,

1 The Commissioner for Cooperation and Registrar of Coop.Societies, Government of Andhra Pradesh,Hyderabad.
2 The District Cooperative Officer, Krishna District at Machilipatnam.
3 The Divisional Cooperative Officer, Gudivada, Krishna District.
4 The Chairman/PIC, the Ilaparru PACS, Ilaparru, Nandivada Mandal, Krishna District.
5. 2 CCs to G.P. for Cooperation , High Court of A.P., Hyderabad (OUT)..
6 2 CD copies.